

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PLACENTIA-YORBA LINDA UNIFIED  
SCHOOL DISTRICT.

OAH Case No. 2015100197

ORDER DENYING MOTION TO  
BIFURCATE

On September 25, 2015, Parent on behalf of Student filed a request for due process hearing (complaint) naming District.

On October 6, 2015, District filed a motion to bifurcate. No opposition was received.

APPLICABLE LAW

Federal and state laws pertaining to special education due process administrative proceedings do not contain a specific reference to the procedure for bifurcating issues at trial. Such authority resides in the discretion of the administrative law judge, provided the separate hearings are conducive to judicial economy or efficient and expeditious use of judicial resources. (See Gov. Code, § 11507.3, subd. (b).)

Generally, OAH will bifurcate a hearing where the resolution of a threshold question will determine whether the remainder of a hearing will be necessary. For example, OAH will bifurcate the issue of whether a student is or was a resident of a school district named as a respondent in a complaint to determine if the district was appropriately named as a party. OAH has also bifurcated specific legal issues such as the statute of limitations because a determination of that issue may reduce or eliminate issues and determine whether the remainder of the hearing will be necessary. Bifurcation limiting parties or issues furthers judicial economy by dismissing a named respondent from a complaint, or by finding that no complaint exists against a respondent due to the student's lack of residency, or that the issue is barred by the statute of limitations.

The statute of limitations for IDEA due process complaints in California is two years prior to the date of filing the request for due process. (Ed. Code § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) However, title 20 United States Code section 1415(f)(3)(D) and Education Code section 56505, subdivision (l), establish exceptions to the statute of limitations, including where (i) the parent or student was prevented from filing a request for

due process due to specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint, or (ii) the local educational agency's withheld information from the parent or student that was required to be provided to the parent or student. These two narrow exceptions to the statute of limitations require factual determinations that can only be made after giving the parties an opportunity to develop the record.

### DISCUSSION AND ORDER

Student's complaint alleges that District denied Student a FAPE by failing to meet its "child find" obligation or develop an individualized education program for Student from July 10, 2012 through the filing of the complaint, a period of more than two years. District seeks to bifurcate the due process hearing, with the issue of whether Student's claims prior to September 25, 2013 are barred by the statute of limitations to be decided before evidence is admitted on any other issue, such as eligibility or remedies.

The determination of whether bifurcation of the hearing, for purposes of a threshold finding of whether an exception to the statute of limitations exists, would be conducive to judicial economy and make an expeditious use of judicial resources in this matter is best made at the prehearing conference.

Accordingly, District's motion to bifurcate is denied, without prejudice to renewal at the PHC.

IT IS SO ORDERED.

DATE: October 19, 2015

/s/

---

ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings